

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**1. SAMUEL A. SALAZAR,**

**Plaintiff,**

**V.**

- 1. CHUY'S OPCO, INC., and**
- 2. CHUY'S HOLDINGS, INC.,**

## Defendants.

**Case No. 15-CV-651-CVE-TLW**

**ANSWER OF DEFENDANTS CHUY'S OPCO, INC. AND CHUY'S HOLDINGS, INC.**

Defendants Chuy's OPCO, Inc. and Chuy's Holdings, Inc., pursuant to Fed. R. Civ. P. 6 and 12, allege and state as follows for their Answer to Plaintiffs' Complaint (Doc. No. 2):

1. Defendants are without sufficient information to either admit or deny the allegations set forth in paragraph 1, and therefore deny them.

2. Defendants admit that Chuy's OPCO, Inc. is a corporation doing business in Tulsa County, Oklahoma. Defendants deny the remaining allegations set forth in paragraph 2.

3. Defendants admit that, at all times material herein, Chuy’s OPCO, Inc. was an “employer” subject to the terms and provisions of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 *et seq.* (“FLSA”). Defendants deny the remaining allegations set forth in paragraph 3.

4. Defendants admit that this court has subject matter jurisdiction over the claims asserted and arising under the FLSA pursuant to 28 U.S.C. § 1331.

5. Defendants admit that Chuy's OPCO, Inc. employed Plaintiff as a "server" from May 2014 through October 2015. Defendants deny the remaining allegations set forth in paragraph 5.

6. Defendants deny the allegations set forth in paragraph 6.

### **AFFIRMATIVE DEFENSES**

Based upon facts known to Defendants as of the date of filing, Defendants set forth the following affirmative defenses to the Complaint. Defendants reserve the right to assert additional affirmative defenses based upon evidence or information later discovered.

1. The Complaint fails to state a claim upon which relief may be granted.
2. Plaintiff's claims are precluded by the fact that he received payment of all "wages" earned and due under the Fair Labor Standards Act.
3. Plaintiff's claims are barred by the doctrines of waiver, estoppel and/or laches in that Plaintiff submitted his own time records which were relied upon when paying his wages. In addition, Defendant Chuy's OPCO, Inc. maintained a reasonable and established process to address allegations of this type, and Plaintiff unreasonably failed to take advantage of that process.
4. Plaintiffs seeks damages and/or remedies not recoverable at law.
5. Plaintiff has failed to adequately and reasonably mitigate any alleged damages.
6. To the extent Plaintiff has mitigated his damages, any relief awarded must be decreased by the amount of earnings, compensation and benefits provided during the relevant period.
7. The actions of the Defendant(s), if any, were taken in good faith and made in conformity with and/or in reliance on administrative regulations, orders, rulings, and/or interpretations of the U.S. Department of Labor.
8. The decisions and actions taken by the Defendant(s), if any, were not willful, but were taken in good faith and based upon a reasonable belief that all such actions did not violate the Fair Labor Standards Act, and should not subject Defendant(s) to liquidated damages.

WHEREFORE, having fully answered and asserted its known affirmative defenses, Defendants respectfully request that Plaintiff take nothing by way of his Complaint, that judgment be granted in favor of Defendants, that Defendants be awarded their costs and reasonable attorneys' fees, and for such other and further relief as the Court deems just and equitable.

Respectfully Submitted,

s/ Courtney Bru

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Courtney Bru, OBA No. 21115  
McAfee & Taft A Professional Corporation  
1717 S. Boulder Avenue, Suite 900  
Tulsa, Oklahoma 74119  
Telephone: (918) 574-3035  
Facsimile: (918) 574-3135  
[courtney.bru@mcafeetaft.com](mailto:courtney.bru@mcafeetaft.com)

Sam Fulkerson, OBA No. 14370  
McAfee & Taft A Professional Corporation  
Tenth Floor, Two Leadership Square  
211 North Robinson Avenue  
Oklahoma City, Oklahoma 73102-7103  
Telephone: (405) 235-9621  
Facsimile: (405) 235-0439  
[sam.fulkerson@mcafeetaft.com](mailto:sam.fulkerson@mcafeetaft.com)

Attorneys for Defendants

**CERTIFICATE OF MAILING**

I hereby certify that on December 7, 2015 I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Steven R. Hickman, [frasier@tulsa.com](mailto:frasier@tulsa.com)

/s/ Courtney Bru